

107TH CONGRESS
1ST SESSION

S. 1502

To amend the Internal Revenue Code of 1986 to allow a refundable tax credit for health insurance costs for COBRA continuation coverage, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 4, 2001

Mr. JEFFORDS (for himself, Mrs. LINCOLN, Mr. CHAFEE, Mr. BAYH, and Ms. SNOWE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow a refundable tax credit for health insurance costs for COBRA continuation coverage, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “COBRA Plus Act of
5 2001”.

6 **SEC. 2. REFUNDABLE HEALTH INSURANCE COSTS CREDIT.**

7 (a) IN GENERAL.—Subpart C of part IV of sub-
8 chapter A of chapter 1 of the Internal Revenue Code of
9 1986 (relating to refundable personal credits) is amended

1 by redesignating section 35 as section 36 and inserting
 2 after section 34 the following:

3 **“SEC. 35. HEALTH INSURANCE COSTS.**

4 “(a) ALLOWANCE OF CREDIT.—In the case of an eli-
 5 gible individual, there shall be allowed as a credit against
 6 the tax imposed by this subtitle for the taxable year an
 7 amount equal to the amount paid by the taxpayer during
 8 such taxable year for qualified health insurance for the
 9 taxpayer and the taxpayer’s spouse and dependents.

10 “(b) LIMITATIONS.—

11 “(1) MAXIMUM DOLLAR AMOUNT.—

12 “(A) IN GENERAL.—The amount allowed
 13 as a credit under subsection (a) to the taxpayer
 14 for the taxable year shall not exceed the sum of
 15 the monthly limitations for coverage months
 16 during such taxable year.

17 “(B) MONTHLY LIMITATION.—The month-
 18 ly limitation for each coverage month during
 19 the taxable year is an amount equal to the less-
 20 er of—

21 “(i) 50 percent of the amount paid for
 22 qualified health insurance for such month,
 23 or

24 “(ii) an amount equal to $\frac{1}{12}$ of—

1 “(I) in the case of self-only cov-
2 erage, \$1,320, and

3 “(II) in the case of family cov-
4 erage, \$3,480.

5 “(2) 9-MONTH LIMITATION.—For purposes of
6 paragraph (1), the total number of coverage months
7 taken into account with respect to each qualifying
8 event of the individual shall not exceed 9.

9 “(3) INFLATION ADJUSTMENT.—

10 “(A) IN GENERAL.—In the case of any
11 taxable year beginning after 2002, each of the
12 dollar amounts referred to in paragraph (1)(B)
13 shall be increased by an amount equal to—

14 “(i) such dollar amount, multiplied by

15 “(ii) the cost-of-living adjustment de-
16 termined under section (1)(f)(3) for the
17 calendar year in which the taxable year be-
18 gins, by substituting ‘2001’ for ‘1992’.

19 “(B) ROUNDING.—If any amount as ad-
20 justed under subparagraph (A) is not a multiple
21 of \$50, such amount shall be rounded to the
22 nearest multiple of \$50.

23 “(c) DEFINITIONS.—For purposes of this section—

24 “(1) COVERAGE MONTH.—

“(A) IN GENERAL.—The term ‘coverage month’ means, with respect to an individual, any month if—

“(i) as of the first day of such month such individual is covered by qualified health insurance, and

“(ii) the premium for coverage under such insurance, or any portion of the premium, for such month is paid by the taxpayer.

“(B) EXCLUSION OF MONTHS IN WHICH INDIVIDUAL IS ELIGIBLE FOR COVERAGE UNDER CERTAIN HEALTH PROGRAMS.—Such term shall not include any month during a taxable year with respect to an individual if, as of the first day of such month, such individual is eligible—

“(i) for any benefits under title XVIII of the Social Security Act,

“(ii) to participate in the program under title XIX or XXI of such Act,

“(iii) for benefits under chapter 17 of title 38, United States Code,

“(iv) for benefits under chapter 55 of title 10, United States Code,

1 “(v) to participate in the program
 2 under chapter 89 of title 5, United States
 3 Code, or any similar program for State or
 4 local government employees, or

5 “(vi) for benefits under any medical
 6 care program under the Indian Health
 7 Care Improvement Act or any other provi-
 8 sion of law.

9 “(C) EXCLUSION OF MONTHS IN WHICH
 10 INDIVIDUAL IS IMPRISONED.—Such term shall
 11 not include any month with respect to an indi-
 12 vidual if, as of the first day of such month,
 13 such individual is imprisoned under Federal,
 14 State, or local authority.

15 “(2) ELIGIBLE INDIVIDUAL.—The term ‘eligible
 16 individual’ means an individual who is—

17 “(A) a covered employee (as defined in sec-
 18 tion 4980B(f)) of the plan sponsor of the quali-
 19 fied health insurance, and

20 “(B) eligible for continuation coverage by
 21 reason of a qualifying event.

22 “(3) QUALIFIED HEALTH INSURANCE.—The
 23 term ‘qualified health insurance’ means health insur-
 24 ance coverage under—

1 “(A) a COBRA continuation provision (as
2 defined in section 9832(d)(1)), or

3 “(B) section 8905a of title 5, United
4 States Code.

5 “(4) QUALIFYING EVENT.—The term ‘quali-
6 fying event’ means an event described in section
7 4980B(f)(3)(B).

8 “(d) SPECIAL RULES.—

9 “(1) COORDINATION WITH MEDICAL EXPENSE
10 DEDUCTION.—The amount which would (but for this
11 paragraph) be taken into account by the taxpayer
12 under section 213 for the taxable year shall be re-
13 duced by the credit (if any) allowed by this section
14 to the taxpayer for such year.

15 “(2) COORDINATION WITH ADVANCE PAY-
16 MENT.—Rules similar to the rules of section 32(g)
17 shall apply to any credit to which this section ap-
18 plies.

19 “(e) EXPENSES MUST BE SUBSTANTIATED.—A pay-
20 ment for insurance to which subsection (a) applies may
21 be taken into account under this section only if the tax-
22 payer substantiates such payment in such form as the Sec-
23 retary may prescribe.

1 “(f) REGULATIONS.—The Secretary shall prescribe
 2 such regulations as may be necessary to carry out the pur-
 3 poses of this section.

4 “(g) TERMINATION.—This section shall not apply to
 5 any amount paid after December 31, 2003.”.

6 (b) INFORMATION REPORTING.—

7 (1) IN GENERAL.—Subpart B of part III of
 8 subchapter A of chapter 61 of the Internal Revenue
 9 Code of 1986 (relating to information concerning
 10 transactions with other persons) is amended by in-
 11 serting after section 6050S the following:

12 **“SEC. 6050T. RETURNS RELATING TO PAYMENTS FOR**
 13 **QUALIFIED HEALTH INSURANCE.**

14 “(a) IN GENERAL.—Any person who, in connection
 15 with a trade or business conducted by such person, re-
 16 ceives payments during any calendar year from any indi-
 17 vidual for coverage of such individual or any other indi-
 18 vidual under creditable health insurance, shall make the
 19 return described in subsection (b) (at such time as the
 20 Secretary may by regulations prescribe) with respect to
 21 each individual from whom such payments were received.

22 “(b) FORM AND MANNER OF RETURNS.—A return
 23 is described in this subsection if such return—

24 “(1) is in such form as the Secretary may pre-
 25 scribe, and

1 “(2) contains—

2 “(A) the name, address, and TIN of the
3 individual from whom payments described in
4 subsection (a) were received,

5 “(B) the name, address, and TIN of each
6 individual who was provided by such person
7 with coverage under creditable health insurance
8 by reason of such payments and the period of
9 such coverage,

10 “(C) the aggregate amount of payments
11 described in subsection (a),

12 “(D) the qualified health insurance credit
13 advance amount (as defined in section 7527(e))
14 received by such person with respect to the indi-
15 vidual described in subparagraph (A), and

16 “(E) such other information as the Sec-
17 retary may reasonably prescribe.

18 “(c) CREDITABLE HEALTH INSURANCE.—For pur-
19 poses of this section, the term ‘creditable health insurance’
20 means qualified health insurance (as defined in section
21 35(c)).

22 “(d) STATEMENTS TO BE FURNISHED TO INDIVID-
23 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
24 QUIRED.—Every person required to make a return under
25 subsection (a) shall furnish to each individual whose name

1 is required under subsection (b)(2)(A) to be set forth in
 2 such return a written statement showing—

3 “(1) the name and address of the person re-
 4 quired to make such return and the phone number
 5 of the information contact for such person,

6 “(2) the aggregate amount of payments de-
 7 scribed in subsection (a) received by the person re-
 8 quired to make such return from the individual to
 9 whom the statement is required to be furnished,

10 “(3) the information required under subsection
 11 (b)(2)(B) with respect to such payments, and

12 “(4) the qualified health insurance credit ad-
 13 vance amount (as defined in section 7527(e)) re-
 14 ceived by such person with respect to the individual
 15 described in paragraph (2).

16 The written statement required under the preceding sen-
 17 tence shall be furnished on or before January 31 of the
 18 year following the calendar year for which the return
 19 under subsection (a) is required to be made.

20 “(e) RETURNS WHICH WOULD BE REQUIRED TO BE
 21 MADE BY 2 OR MORE PERSONS.—Except to the extent
 22 provided in regulations prescribed by the Secretary, in the
 23 case of any amount received by any person on behalf of
 24 another person, only the person first receiving such

1 amount shall be required to make the return under sub-
 2 section (a).”.

3 (2) ASSESSABLE PENALTIES.—

4 (A) Subparagraph (B) of section
 5 6724(d)(1) of such Code (relating to defini-
 6 tions) is amended by redesignating clauses (xi)
 7 through (xvii) as clauses (xii) through (xviii),
 8 respectively, and by inserting after clause (x)
 9 the following:

10 “(xi) section 6050T (relating to re-
 11 turns relating to payments for qualified
 12 health insurance),”.

13 (B) Paragraph (2) of section 6724(d) of
 14 such Code is amended by striking “or” at the
 15 end of the next to last subparagraph, by strik-
 16 ing the period at the end of the last subpara-
 17 graph and inserting “, or”, and by adding at
 18 the end the following:

19 “(BB) section 6050T(d) (relating to re-
 20 turns relating to payments for qualified health
 21 insurance).”.

22 (3) CLERICAL AMENDMENT.—The table of sec-
 23 tions for subpart B of part III of subchapter A of
 24 chapter 61 of such Code is amended by inserting
 25 after the item relating to section 6050S the fol-

1 lowing:

“Sec. 6050T. Returns relating to payments for qualified health insurance.”.

2 (c) CRIMINAL PENALTY FOR FRAUD.—Subchapter B
3 of chapter 75 of the Internal Revenue Code of 1986 (relat-
4 ing to other offenses) is amended by adding at the end
5 the following:

6 **“SEC. 7276. PENALTIES FOR OFFENSES RELATING TO**
7 **HEALTH INSURANCE TAX CREDIT.**

8 “Any person who knowingly misuses Department of
9 the Treasury names, symbols, titles, or initials to convey
10 the false impression of association with, or approval or en-
11 dorsement by, the Department of the Treasury of any in-
12 surance products or group health coverage in connection
13 with the credit for health insurance costs under section
14 35 shall on conviction thereof be fined not more than
15 \$10,000, or imprisoned not more than 1 year, or both.”.

16 (d) CONFORMING AMENDMENTS.—

17 (1) Section 162(l) of the Internal Revenue Code
18 of 1986 is amended by adding at the end the fol-
19 lowing:

20 “(6) ELECTION TO HAVE SUBSECTION
21 APPLY.—No deduction shall be allowed under para-
22 graph (1) for a taxable year unless the taxpayer
23 elects to have this subsection apply for such year.”.

1 (2) Paragraph (2) of section 1324(b) of title
2 31, United States Code, is amended by inserting be-
3 fore the period “, or from section 35 of such Code”.

4 (3) The table of sections for subpart C of part
5 IV of subchapter A of chapter 1 of the Internal Rev-
6 enue Code of 1986 is amended by striking the last
7 item and inserting the following:

“Sec. 35. Health insurance costs.

“Sec. 36. Overpayments of tax.”.

8 (4) The table of sections for subchapter B of
9 chapter 75 of the Internal Revenue Code of 1986 is
10 amended by adding at the end the following:

“Sec. 7276. Penalties for offenses relating to health insurance tax
credit.”.

11 (e) EFFECTIVE DATES.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), the amendments made by this section
14 shall apply to taxable years beginning after Decem-
15 ber 31, 2001.

16 (2) PENALTIES.—The amendments made by
17 subsections (c) and (d)(4) shall take effect on the
18 date of the enactment of this Act.

19 **SEC. 3. ADVANCE PAYMENT OF CREDIT TO ISSUERS OF**
20 **QUALIFIED HEALTH INSURANCE.**

21 (a) IN GENERAL.—Chapter 77 of the Internal Rev-
22 enue Code of 1986 (relating to miscellaneous provisions)
23 is amended by adding at the end the following:

1 **“SEC. 7527. ADVANCE PAYMENT OF HEALTH INSURANCE**
 2 **CREDIT FOR PURCHASERS OF QUALIFIED**
 3 **HEALTH INSURANCE.**

4 “(a) GENERAL RULE.—In the case of an eligible indi-
 5 vidual, the Secretary shall make payments to the plan
 6 sponsor of the group health plan providing, or the quali-
 7 fied health insurance issuer of, such individual’s qualified
 8 health insurance equal to such individual’s qualified health
 9 insurance credit advance amount with respect to such
 10 sponsor or issuer.

11 “(b) ELIGIBLE INDIVIDUAL.—For purposes of this
 12 section, the term ‘eligible individual’ means any
 13 individual—

14 “(1) who purchases qualified health insurance
 15 (as defined in section 35(c)), and

16 “(2) for whom a qualified health insurance
 17 credit eligibility certificate is in effect.

18 “(c) DEFINITIONS.—For purposes of this section—

19 “(1) QUALIFIED HEALTH INSURANCE
 20 ISSUER.—The term ‘qualified health insurance
 21 issuer’ means a health insurance issuer described in
 22 section 9832(b)(2) (determined without regard to
 23 the last sentence thereof) offering coverage in con-
 24 nection with a group health plan.

25 “(2) GROUP HEALTH PLAN.—The term ‘group
 26 health plan’ has the meaning given such term by

1 section 5000(b)(1) (determined without regard to
2 subsection (d) thereof).

3 “(d) QUALIFIED HEALTH INSURANCE CREDIT ELI-
4 GIBILITY CERTIFICATE.—For purposes of this section, a
5 qualified health insurance credit eligibility certificate is a
6 statement furnished by an individual to a plan sponsor
7 of a group health plan or qualified health insurance issuer
8 which—

9 “(1) certifies that the individual will be eligible
10 to receive the credit provided by section 35 for the
11 taxable year,

12 “(2) estimates the amount of such credit for
13 such taxable year, and

14 “(3) provides such other information as the
15 Secretary may require for purposes of this section.

16 “(e) QUALIFIED HEALTH INSURANCE CREDIT AD-
17 VANCE AMOUNT.—For purposes of this section, the term
18 ‘qualified health insurance credit advance amount’ means,
19 with respect to any plan sponsor of a group health plan
20 providing, or qualified health insurance issuer of, qualified
21 health insurance, an estimate of the amount of credit al-
22 lowable under section 35 to the individual for the taxable
23 year which is attributable to the insurance provided to the
24 individual by such sponsor or issuer.

1 “(f) REQUIRED DOCUMENTATION FOR RECEIPT OF
 2 PAYMENTS OF ADVANCE AMOUNT.—No payment of a
 3 qualified health insurance credit advance amount with re-
 4 spect to any eligible individual may be made under sub-
 5 section (a) unless the plan sponsor of the group health
 6 plan or health insurance issuer provides to the
 7 Secretary—

8 “(1) the qualified health insurance credit eligi-
 9 bility certificate of such individual, and

10 “(2) the return relating to such individual
 11 under section 6050T.

12 “(g) REGULATIONS.—The Secretary shall prescribe
 13 such regulations as may be necessary to carry out the pur-
 14 poses of this section.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
 16 for chapter 77 of the Internal Revenue Code of 1986 is
 17 amended by adding at the end the following:

“Sec. 7527. Advance payment of health insurance credit for pur-
 chasers of qualified health insurance.”.

18 (c) EFFECTIVE DATE.—The amendments made by
 19 this section shall take effect on January 1, 2002.

20 **SEC. 4. STUDY.**

21 Not later than January 1, 2003, the Comptroller
 22 General of the United States shall—

23 (1) conduct a study on the effectiveness of the
 24 amendments made by this Act in increasing enroll-

1 ment by eligible individuals (as defined in section
2 35(c)(2), as added by section 2) in group health
3 plans under COBRA continuation coverage; and

4 (2) submit a report on the study conducted
5 under paragraph (1) to the Committee on Ways and
6 Means of the House of Representatives and the
7 Committee on Finance of the Senate.

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